

R E M A R K S

Claims 1-21 are currently pending in the application. Claims 4, 6-8, 10-12 and 15-21 have been withdrawn from consideration. Claims 1-3, 5, 9, 13 and 14 stand rejected under 35 USC §103 as obvious over WO 95/03981 (Large) in view of U.S. Patent No. 2,081,152, to Replogle et al (Replogle), U.S. Patent No. 2,166,513 (Waters) and JP 2001-253452 (Morimoto).

Reconsideration of the rejection of claims 1-3, 5, 9, 13 and 14 is requested.

Applicant's undersigned attorney wishes to thank Examiner Weinstein for the courtesies extended him during the telephonic interview on March 11, 2008.

During the interview, the structure and function of the claimed subject matter was discussed. As explained, the claims are focused on controlling a container for an alcoholic beverage, such as is consumed in restaurant and/or bars.

In the past, states prohibited the transportation of an open alcohol container in a moving vehicle. Thus, if an individual ordered a bottle of wine and did not fully consume the contents at the particular establishment at which it was purchased, he/she would normally be left with the options of either: a) leaving the unconsumed alcohol at the establishment; or b) transporting the container home in a motor vehicle in violation of state law.

With the Applicant's invention, transportation of an opened bottle of alcohol can be monitored so that it can be determined that the individual transporting the same has not accessed the contents thereof in a moving vehicle in which the container is transported. With the inventive structure, the container with alcoholic beverage is capable of being handled as follows. For purposes of simplicity, the process will be explained with respect to a container in the form of a wine bottle with a cork and wrapper, with the understanding

that this construction is used for purposes of explanation only, as myriad other structures are contemplated.

At a restaurant or bar, a user purchases a bottle of wine in which a cork is inserted and a factory wrapper is still intact. In this configuration, the container is in an unopened state. It is not possible to dispense wine from the container in this state.

To access the wine, the wrapper is severed, with the cork still in place. The container in this configuration is in an unsealed/closed state. That is, by visual inspection, it can be determined that the wrapper has been severed, with the cork remaining in place so that the wine cannot be dispensed.

By thereafter removing the cork, the container can be placed in an opened state wherein the wine can be dispensed for consumption.

By replacing the cork, the container is placed back into the unsealed/closed state. It is not necessary that the configuration be identical to the initial unsealed/closed state that resulted once the wrapper was compromised. In this state, the cork blocks discharge of the wine. However, it can be determined by visual inspection that the container has an overall configuration that is different than it was in its unopened state. That is, even if the cork is replaced fully, the compromised wrapper gives a visual indication that the container was changed at least to the unsealed/closed state and potentially the opened state, whereby a user could have extracted some of the beverage.

According to the invention, with the container in either the opened or the unsealed/closed state, a closure system is utilized having first and second different states. In the first state, the closure system prevents dispensing of the wine from the container. Upon being changed from the first state into the second state, it is possible to access the container to allow the container to be changed from the unsealed/closed state into the

opened state whereupon the beverage can be dispensed therefrom. The closure system is configured so that it is detectable that the closure system has been changed from the first state into the second state. The closure system is further configured so that it cannot be changed from the second state precisely back into the first state.

Consequently, if a law enforcement officer stopped the user with the above package, he/she would inspect the container in the open or unsealed/closed state with the closure system operatively associated therewith and in its first state. This would give an indication to the law enforcement person that since the closure system was placed in the first state, the user had not accessed the container in a manner whereby its contents could be discharged.

Interestingly, after the above application was filed, the "Wine Doggie Bag" was devised to support state legislation, passed after Applicant's invention, that allowed controlled transportation of previously opened alcohol containers. This supports the fact that Applicant's invention clearly met a long felt need for a solution to the above noted problems.

More specifically, in the absence of having a legal way to transport an open alcohol container in a moving vehicle, bar/restaurant patrons might be inclined to stay at an establishment and finish consumption of a potentially expensive beverage that they might otherwise choose not to consume and take home. The result of this is the encouragement of excessive drinking which has clear detrimental effects. Alternatively, as noted above, the bar/restaurant patrons might just leave the container and its contents at the bar/restaurant.

Applicant submits that its invention is one that offers a solution to a problem that has plagued the entertainment industry for decades. The significance of this invention is borne

out by the flurry of legislative action that permits controlled transportation of open alcohol containers and the introduction of the "Wine Doggie Bag" product.

During the interview, there was discussion regarding a different description of the various states of the container so that it was clear exactly what was being claimed. The Detailed Description and claims have been amended for this purpose. In doing so, no new matter has been introduced.

More specifically, the states of the container have been clarified as follow: 1) unopened state - sealed and blocked against dispensing; 2) unsealed/closed state - unsealed but blocked against dispensing; and 3) open state - unsealed and unblocked against dispensing.

As claim 1 is now presented, the container associated with the closure system is one that has been detectably changed from the unopened state into the unsealed/closed state. In the unsealed/closed state, by a simple reconfiguration, as by removal of a cork, a user could access the alcoholic beverage in the container storage space. Thus, so long as the closure system remains in the first state, it can be determined by inspection that the container in the unsealed/closed state or open state has not been accessed since the closure system was placed in the first state therefor.

During the interview, the cited prior art was discussed; particularly Large. Large discloses a sheath on an unopened container. Large is not concerned with providing a safeguard against undetectable accessing of the contents of a container. The fact that the sheath in Large is required to evidence tampering with the container makes it clear that it is not contemplated by Large that the container itself be constructed to be detectably changed from the unopened state into the opened state. Otherwise, the bottle itself could function to evidence tampering.

Applicant respectfully submits that Large does not address or give any motivation to anyone to address the problem of controlling undetectable access to the contents of a container in a corresponding opened or unsealed/closed state. The secondary references do not alone, or in any combination with themselves or Large, teach or suggest the structure recited in claim 1.

The Examiner has not expressly stated in the last Action how the secondary references are being applied, and it is thus assumed that they are relied upon for detail of only some of the claims as set forth in the October 12, 2007 Action.

Claims 2, 3, 5, 9, 13 and 14 depend cognately from claim 1 and recite further significant limitations to further distinguish over the art.

Reconsideration of the rejection of claims 1-3, 5, 9, 13 and 14 and allowance of the case are requested.

Respectfully submitted,

By


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